

In the Senate of the United States,

September 15, 2004.

Resolved, That the bill from the House of Representatives (H.R. 2828) entitled “An Act to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE*.—*This Act may be cited as the*

3 *“Water Supply, Reliability, and Environmental Improve-*

4 *ment Act”.*

1 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 2 *Act is as follows:*

Sec. 1. Short title; table of contents.

**TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL
ENHANCEMENT**

Sec. 101. Short title.

Sec. 102. Definitions.

Sec. 103. Bay Delta program.

Sec. 104. Management.

Sec. 105. Reporting requirements.

Sec. 106. Crosscut budget.

Sec. 107. Federal share of costs.

Sec. 108. Compliance with State and Federal law.

Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

Sec. 201. Salton Sea study program.

*Sec. 202. Alder Creek water storage and conservation project feasibility study and
report.*

Sec. 203. Folsom Reservoir temperature control device authorization.

3 **TITLE I—CALIFORNIA WATER SE-**
 4 **CURITY AND ENVIRON-**
 5 **MENTAL ENHANCEMENT**

6 **SEC. 101. SHORT TITLE.**

7 *This title may be cited as the “Calfed Bay-Delta Au-*
 8 *thorization Act”.*

9 **SEC. 102. DEFINITIONS.**

10 *In this title:*

11 (1) *CALFED BAY-DELTA PROGRAM.*—*The terms*
 12 *“Calfed Bay-Delta Program” and “Program” mean*
 13 *the programs, projects, complementary actions, and*
 14 *activities undertaken through coordinated planning,*
 15 *implementation, and assessment activities of the State*

1 *agencies and Federal agencies as set forth in the*
 2 *Record of Decision.*

3 (2) *CALIFORNIA BAY-DELTA AUTHORITY.*—*The*
 4 *terms “California Bay-Delta Authority” and “Au-*
 5 *thority” mean the California Bay-Delta Authority, as*
 6 *set forth in the California Bay-Delta Authority Act*
 7 *(Cal. Water Code § 79400 et seq.).*

8 (3) *DELTA.*—*The term “Delta” has the meaning*
 9 *given the term in the Record of Decision.*

10 (4) *ENVIRONMENTAL WATER ACCOUNT.*—*The*
 11 *term “Environmental Water Account” means the Co-*
 12 *operative Management Program established under the*
 13 *Record of Decision.*

14 (5) *FEDERAL AGENCIES.*—*The term “Federal*
 15 *agencies” means—*

16 (A) *the Department of the Interior,*
 17 *including—*

18 (i) *the Bureau of Reclamation;*

19 (ii) *the United States Fish and Wild-*
 20 *life Service;*

21 (iii) *the Bureau of Land Management;*
 22 *and*

23 (iv) *the United States Geological Sur-*
 24 *vey;*

25 (B) *the Environmental Protection Agency;*

1 (C) the Army Corps of Engineers;

2 (D) the Department of Commerce, including
3 the National Marine Fisheries Service (also
4 known as “NOAA Fisheries”);

5 (E) the Department of Agriculture,
6 including—

7 (i) the Natural Resources Conservation
8 Service; and

9 (ii) the Forest Service; and

10 (F) the Western Area Power Administra-
11 tion.

12 (6) *FIRM YIELD*.—The term “firm yield” means
13 a quantity of water from a project or program that
14 is projected to be available on a reliable basis, given
15 a specified level of risk, during a critically dry pe-
16 riod.

17 (7) *GOVERNOR*.—The term “Governor” means
18 the Governor of the State of California.

19 (8) *RECORD OF DECISION*.—The term “Record of
20 Decision” means the Calfed Bay-Delta Program
21 Record of Decision, dated August 28, 2000.

22 (9) *SECRETARY*.—The term “Secretary” means
23 the Secretary of the Interior.

24 (10) *STATE*.—The term “State” means the State
25 of California.

1 (11) *STATE AGENCIES.*—*The term “State agen-*
 2 *cies” means—*

3 (A) *the Resources Agency of California,*
 4 *including—*

5 (i) *the Department of Water Resources;*

6 (ii) *the Department of Fish and Game;*

7 (iii) *the Reclamation Board;*

8 (iv) *the Delta Protection Commission;*

9 (v) *the Department of Conservation;*

10 (vi) *the San Francisco Bay Conserva-*
 11 *tion and Development Commission;*

12 (vii) *the Department of Parks and*
 13 *Recreation; and*

14 (viii) *the California Bay-Delta Author-*
 15 *ity;*

16 (B) *the California Environmental Protec-*
 17 *tion Agency, including the State Water Re-*
 18 *sources Control Board;*

19 (C) *the California Department of Food and*
 20 *Agriculture; and*

21 (D) *the Department of Health Services.*

22 **SEC. 103. BAY DELTA PROGRAM.**

23 (a) *IN GENERAL.*—

24 (1) *RECORD OF DECISION AS GENERAL FRAME-*
 25 *WORK.*—*The Record of Decision is approved as a gen-*

eral framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) *REQUIREMENTS.*—

(A) *IN GENERAL.*—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with—

(i) *the Record of Decision;*

(ii) *the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and*

(iii) *this title.*

(B) *MULTIPLE BENEFITS.*—In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

1 (b) *AUTHORIZED ACTIVITIES.*—*The Secretary and the*
 2 *heads of the Federal agencies are authorized to carry out*
 3 *the activities described in subsections (c) through (f) in fur-*
 4 *therance of the Calfed Bay-Delta Program as set forth in*
 5 *the Record of Decision, subject to the cost-share and other*
 6 *provisions of this title, if the activity has been—*

7 (1) *subject to environmental review and ap-*
 8 *proval, as required under applicable Federal and*
 9 *State law; and*

10 (2) *approved and certified by the relevant Fed-*
 11 *eral agency, following consultation and coordination*
 12 *with the Governor, to be consistent with the Record of*
 13 *Decision.*

14 (c) *AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER*
 15 *APPLICABLE LAW.*—

16 (1) *SECRETARY OF THE INTERIOR.*—*The Sec-*
 17 *retary of the Interior is authorized to carry out the*
 18 *activities described in paragraphs (1) through (10) of*
 19 *subsection (d), to the extent authorized under the rec-*
 20 *lamation laws, the Central Valley Project Improve-*
 21 *ment Act (title XXXIV of Public Law 102–575; 106*
 22 *Stat. 4706), the Fish and Wildlife Coordination Act*
 23 *(16 U.S.C. 661 et seq.), the Endangered Species Act*
 24 *of 1973 (16 U.S.C. 1531 et seq.), and other applicable*
 25 *law.*

1 (2) *ADMINISTRATOR OF THE ENVIRONMENTAL*
 2 *PROTECTION AGENCY.—The Administrator of the En-*
 3 *vironmental Protection Agency is authorized to carry*
 4 *out the activities described in paragraphs (3), (5),*
 5 *(6), (7), (8), and (9) of subsection (d), to the extent*
 6 *authorized under the Federal Water Pollution Control*
 7 *Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water*
 8 *Act (42 U.S.C. 300f et seq.), and other applicable law.*

9 (3) *SECRETARY OF THE ARMY.—The Secretary of*
 10 *the Army is authorized to carry out the activities de-*
 11 *scribed in paragraphs (1), (2), (6), (7), (8), and (9)*
 12 *of subsection (d), to the extent authorized under flood*
 13 *control, water resource development, and other appli-*
 14 *cable law.*

15 (4) *SECRETARY OF COMMERCE.—The Secretary*
 16 *of Commerce is authorized to carry out the activities*
 17 *described in paragraphs (2), (6), (7), and (9) of sub-*
 18 *section (d), to the extent authorized under the Fish*
 19 *and Wildlife Coordination Act (16 U.S.C. 661 et*
 20 *seq.), the Endangered Species Act of 1973 (16 U.S.C.*
 21 *1531 et seq.), and other applicable law.*

22 (5) *SECRETARY OF AGRICULTURE.—The Sec-*
 23 *retary of Agriculture is authorized to carry out the*
 24 *activities described in paragraphs (3), (5), (6), (7),*
 25 *(8), and (9) of subsection (d), to the extent authorized*

under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(d) DESCRIPTION OF ACTIVITIES UNDER APPLICABLE LAW.—

(1) WATER STORAGE.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and

(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and

(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

1 (iii) *developing and implementing*
 2 *groundwater management and groundwater*
 3 *storage projects; and*

4 (iv) *comprehensive water management*
 5 *planning.*

6 (B) *STORAGE PROJECT AUTHORIZATION*
 7 *AND BALANCED CALFED IMPLEMENTATION.—*

8 (i) *IN GENERAL.—If on completion of*
 9 *the feasibility study for a project described*
 10 *in clause (i) or (ii) of subparagraph (A),*
 11 *the Secretary, in consultation with the Gov-*
 12 *ernor, determines that the project should be*
 13 *constructed in whole or in part with Fed-*
 14 *eral funds, the Secretary shall submit the*
 15 *feasibility study to Congress.*

16 (ii) *FINDING OF IMBALANCE.—If Con-*
 17 *gress fails to authorize construction of the*
 18 *project by the end of the next full session*
 19 *following the submission of the feasibility*
 20 *study, the Secretary, in consultation with*
 21 *the Governor, shall prepare a written deter-*
 22 *mination making a finding of imbalance*
 23 *for the Calfed Bay-Delta Program.*

24 (iii) *REPORT ON REBALANCING.—*

1 (I) *IN GENERAL.*—*If the Secretary*
 2 *makes a finding of imbalance for the*
 3 *Program under clause (ii), the Sec-*
 4 *retary, in consultation with the Gov-*
 5 *ernor, shall, not later than 180 days*
 6 *after the end of the full session de-*
 7 *scribed in clause (ii), prepare and sub-*
 8 *mit to Congress a report on the meas-*
 9 *ures necessary to rebalance the Pro-*
 10 *gram.*

11 (II) *SCHEDULES AND ALTER-*
 12 *NATIVES.*—*The report shall include*
 13 *preparation of revised schedules and*
 14 *identification of alternatives to rebal-*
 15 *ance the Program, including resubmis-*
 16 *sion of the project to Congress with or*
 17 *without modification, construction of*
 18 *other projects, and construction of*
 19 *other projects that provide equivalent*
 20 *water supply and other benefits at*
 21 *equal or lesser cost.*

22 (C) *WATER SUPPLY AND YIELD STUDY.*—

23 (i) *IN GENERAL.*—*The Secretary, act-*
 24 *ing through the Bureau of Reclamation and*
 25 *in coordination with the State, shall con-*

duct a study of available water supplies
and existing and future needs for water—

(I) within the units of the Central
Valley Project;

(II) within the area served by
Central Valley Project agricultural,
municipal, and industrial water serv-
ice contractors; and

(III) within the Calfed Delta solu-
tion area.

(ii) *RELATIONSHIP TO PRIOR STUDY.*—

In conducting the study, the Secretary shall
incorporate and revise, as necessary, the re-
sults of the study required by section
3408(j) of the Central Valley Project Im-
provement Act of 1992 (Public Law 102–
575; 106 Stat. 4730).

(iii) *REPORT.*—Not later than 1 year
after the date of enactment of this Act, the
Secretary shall submit to the appropriate
authorizing and appropriating committees
of the Senate and the House of Representa-
tives a report describing the results of the
study, including—

1 (I) *new firm yield and water sup-*
2 *ply improvements, if any, for Central*
3 *Valley Project agricultural water serv-*
4 *ice contractors and municipal and in-*
5 *dustrial water service contractors, in-*
6 *cluding those identified in Bulletin*
7 *160;*

8 (II) *all water management ac-*
9 *tions or projects, including those iden-*
10 *tified in Bulletin 160, that would—*

11 (aa) *improve firm yield or*
12 *water supply; and*

13 (bb) *if taken or constructed,*
14 *balance available water supplies*
15 *and existing demand with due*
16 *recognition of water right prior-*
17 *ities and environmental needs;*

18 (III) *the financial costs of the ac-*
19 *tions and projects described under sub-*
20 *clause (II); and*

21 (IV) *the beneficiaries of those ac-*
22 *tions and projects and an assessment of*
23 *the willingness of the beneficiaries to*
24 *pay the capital costs and operation*

1 *and maintenance costs of the actions*
 2 *and projects.*

3 (D) *MANAGEMENT.*—*The Secretary shall*
 4 *conduct activities related to developing ground-*
 5 *water storage projects to the extent authorized*
 6 *under law.*

7 (E) *COMPREHENSIVE WATER PLANNING.*—
 8 *The Secretary shall conduct activities related to*
 9 *comprehensive water management planning to*
 10 *the extent authorized under law.*

11 (2) *CONVEYANCE.*—

12 (A) *SOUTH DELTA ACTIONS.*—

13 (i) *IN GENERAL.*—*In the case of the*
 14 *South Delta, activities under this subpara-*
 15 *graph consist of—*

16 (I) *the South Delta Improvements*
 17 *Program through actions to—*

18 (aa) *increase the State Water*
 19 *Project export limit to 8,500 cfs;*

20 (bb) *install permanent, oper-*
 21 *able barriers in the South Delta,*
 22 *under which Federal agencies*
 23 *shall cooperate with the State to*
 24 *accelerate installation of the per-*
 25 *manent, operable barriers in the*

1 *South Delta, with an intent to*
2 *complete that installation not*
3 *later than September 30, 2007;*

4 *(cc) evaluate, consistent with*
5 *the Record of Decision, fish*
6 *screens and intake facilities at the*
7 *Tracy Pumping Plant facilities;*
8 *and*

9 *(dd) increase the State Water*
10 *Project export to the maximum*
11 *capability of 10,300 cfs;*

12 *(II) reduction of agricultural*
13 *drainage in South Delta channels, and*
14 *other actions necessary to minimize the*
15 *impact of drainage on drinking water*
16 *quality;*

17 *(III) evaluation of lower San Joa-*
18 *quin River floodway improvements;*

19 *(IV) installation and operation of*
20 *temporary barriers in the South Delta*
21 *until fully operable barriers are con-*
22 *structed; and*

23 *(V) actions to protect navigation*
24 *and local diversions not adequately*
25 *protected by temporary barriers.*

1 (ii) *ACTIONS TO INCREASE PUMPING.*—

2 *Actions to increase pumping shall be accom-*
 3 *plished in a manner consistent with the*
 4 *Record of Decision requirement to avoid re-*
 5 *directed impacts and adverse impacts to*
 6 *fishery protection and with any applicable*
 7 *Federal or State law that protects—*

8 (I) *water diversions and use (in-*
 9 *cluding avoidance of increased costs of*
 10 *diversion) by in-Delta water users (in-*
 11 *cluding in-Delta agricultural users*
 12 *that have historically relied on water*
 13 *diverted for use in the Delta);*

14 (II) *water quality for municipal,*
 15 *industrial, agricultural, and other*
 16 *uses; and*

17 (III) *water supplies for areas of*
 18 *origin.*

19 (B) *NORTH DELTA ACTIONS.*—*In the case of*
 20 *the North Delta, activities under this subpara-*
 21 *graph consist of—*

22 (i) *evaluation and implementation of*
 23 *improved operational procedures for the*
 24 *Delta Cross Channel to address fishery and*
 25 *water quality concerns;*

1 (ii) evaluation of a screened through-
2 Delta facility on the Sacramento River; and

3 (iii) evaluation of lower Mokelumne
4 River floodway improvements.

5 (C) *INTERTIES*.—Activities under this sub-
6 paragraph consist of—

7 (i) evaluation and construction of an
8 intertie between the State Water Project
9 California Aqueduct and the Central Valley
10 Project Delta Mendota Canal, near the City
11 of Tracy, as an operation and maintenance
12 activity, except that the Secretary shall de-
13 sign and construct the intertie in a manner
14 consistent with a possible future expansion
15 of the intertie capacity (as described in sub-
16 section (f)(1)(B)); and

17 (ii) assessment of a connection of the
18 Central Valley Project to the Clifton Court
19 Forebay of the State Water Project, with a
20 corresponding increase in the screened in-
21 take of the Forebay.

22 (D) *PROGRAM TO MEET STANDARDS*.—

23 (i) *IN GENERAL*.—Prior to increasing
24 export limits from the Delta for the pur-
25 poses of conveying water to south-of-Delta

1 *Central Valley Project contractors or in-*
 2 *creasing deliveries through an intertie, the*
 3 *Secretary shall, not later than 1 year after*
 4 *the date of enactment of this Act, in con-*
 5 *sultation with the Governor, develop and*
 6 *initiate implementation of a program to*
 7 *meet all existing water quality standards*
 8 *and objectives for which the Central Valley*
 9 *Project has responsibility.*

10 (ii) *MEASURES.*—*In developing and*
 11 *implementing the program, the Secretary*
 12 *shall include, to the maximum extent fea-*
 13 *sible, the measures described in clauses (iii)*
 14 *through (vii).*

15 (iii) *RECIRCULATION PROGRAM.*—*The*
 16 *Secretary shall incorporate into the pro-*
 17 *gram a recirculation program to provide*
 18 *flow, reduce salinity concentrations in the*
 19 *San Joaquin River, and reduce the reliance*
 20 *on the New Melones Reservoir for meeting*
 21 *water quality and fishery flow objectives*
 22 *through the use of excess capacity in export*
 23 *pumping and conveyance facilities.*

24 (iv) *BEST MANAGEMENT PRACTICES*
 25 *PLAN.*—

1 (I) *IN GENERAL.*—*The Secretary*
2 *shall develop and implement, in co-*
3 *ordination with the State’s programs*
4 *to improve water quality in the San*
5 *Joaquin River, a best management*
6 *practices plan to reduce the water*
7 *quality impacts of the discharges from*
8 *wildlife refuges that receive water from*
9 *the Federal Government and discharge*
10 *salt or other constituents into the San*
11 *Joaquin River.*

12 (II) *COORDINATION WITH INTER-*
13 *ESTED PARTIES.*—*The plan shall be*
14 *developed in coordination with inter-*
15 *ested parties in the San Joaquin Val-*
16 *ley and the Delta.*

17 (III) *COORDINATION WITH ENTI-*
18 *TIES THAT DISCHARGE WATER.*—*The*
19 *Secretary shall also coordinate activi-*
20 *ties under this clause with other enti-*
21 *ties that discharge water into the San*
22 *Joaquin River to reduce salinity con-*
23 *centrations discharged into the River,*
24 *including the timing of discharges to*
25 *optimize their assimilation.*

1 (v) *ACQUISITION OF WATER.*—*The Sec-*
2 *retary shall incorporate into the program*
3 *the acquisition from willing sellers of water*
4 *from streams tributary to the San Joaquin*
5 *River or other sources to provide flow, di-*
6 *lute discharges of salt or other constituents,*
7 *and to improve water quality in the San*
8 *Joaquin River below the confluence of the*
9 *Merced and San Joaquin Rivers, and to re-*
10 *duce the reliance on New Melones Reservoir*
11 *for meeting water quality and fishery flow*
12 *objectives.*

13 (vi) *PURPOSE.*—*The purpose of the au-*
14 *thority and direction provided to the Sec-*
15 *retary under this subparagraph is to pro-*
16 *vide greater flexibility in meeting the exist-*
17 *ing water quality standards and objectives*
18 *for which the Central Valley Project has re-*
19 *sponsibility so as to reduce the demand on*
20 *water from New Melones Reservoir used for*
21 *that purpose and to assist the Secretary in*
22 *meeting any obligations to Central Valley*
23 *Project contractors from the New Melones*
24 *Project.*

1 (vii) *UPDATING OF NEW MELONES OP-*
 2 *ERATING PLAN.*—*The Secretary shall update*
 3 *the New Melones operating plan to take into*
 4 *account, among other things, the actions de-*
 5 *scribed in this title that are designed to re-*
 6 *duce the reliance on New Melones Reservoir*
 7 *for meeting water quality and fishery flow*
 8 *objectives, and to ensure that actions to en-*
 9 *hance fisheries in the Stanislaus River are*
 10 *based on the best available science.*

11 (3) *WATER USE EFFICIENCY.*—

12 (A) *WATER CONSERVATION PROJECTS.*—*Ac-*
 13 *tivities under this paragraph include water con-*
 14 *servation projects that provide water supply reli-*
 15 *ability, water quality, and ecosystem benefits to*
 16 *the California Bay-Delta system.*

17 (B) *TECHNICAL ASSISTANCE.*—*Activities*
 18 *under this paragraph include technical assist-*
 19 *ance for urban and agricultural water conserva-*
 20 *tion projects.*

21 (C) *WATER RECYCLING AND DESALINATION*
 22 *PROJECTS.*—*Activities under this paragraph in-*
 23 *clude water recycling and desalination projects,*
 24 *including groundwater remediation projects and*
 25 *projects identified in the Bay Area Water Plan*

1 *and the Southern California Comprehensive*
 2 *Water Reclamation and Reuse Study and other*
 3 *projects, giving priority to projects that include*
 4 *regional solutions to benefit regional water sup-*
 5 *ply and reliability needs.*

6 (D) *WATER MEASUREMENT AND TRANSFER*
 7 *ACTIONS.—Activities under this paragraph in-*
 8 *clude water measurement and transfer actions.*

9 (E) *URBAN WATER CONSERVATION.—Activi-*
 10 *ties under this paragraph include implementa-*
 11 *tion of best management practices for urban*
 12 *water conservation.*

13 (F) *RECLAMATION AND RECYCLING*
 14 *PROJECTS.—*

15 (i) *PROJECTS.—This subparagraph*
 16 *applies to—*

17 (I) *projects identified in the*
 18 *Southern California Comprehensive*
 19 *Water Reclamation and Reuse Study,*
 20 *dated April 2001 and authorized by*
 21 *section 1606 of the Reclamation Waste-*
 22 *water and Groundwater Study and*
 23 *Facilities Act (43 U.S.C. 390h–4); and*

24 (II) *projects identified in the San*
 25 *Francisco Bay Area Regional Water*

1 *Recycling Program described in the*
 2 *San Francisco Bay Area Regional*
 3 *Water Recycling Program Recycled*
 4 *Water Master Plan, dated December*
 5 *1999 and authorized by section 1611 of*
 6 *the Reclamation Wastewater and*
 7 *Groundwater Study and Facilities Act*
 8 *(43 U.S.C. 390h–9).*

9 (ii) *DEADLINE.*—*Not later than 180*
 10 *days after the date of enactment of this Act,*
 11 *the Secretary shall—*

12 *(I) complete the review of the ex-*
 13 *isting studies of the projects described*
 14 *in clause (i); and*

15 *(II) make the feasibility deter-*
 16 *minations described in clause (iii).*

17 (iii) *FEASIBILITY DETERMINATIONS.*—
 18 *A project described in clause (i) is presumed*
 19 *to be feasible if the Secretary determines for*
 20 *the project—*

21 *(I) in consultation with the af-*
 22 *ected local sponsoring agency and the*
 23 *State, that the existing planning and*
 24 *environmental studies for the project*
 25 *(together with supporting materials*

1 *and documentation) have been pre-*
2 *pared consistent with Bureau of Rec-*
3 *lamation procedures for projects under*
4 *consideration for financial assistance*
5 *under the Reclamation Wastewater*
6 *and Groundwater Study and Facilities*
7 *Act (43 U.S.C. 390h et seq.); and*

8 *(II) that the planning and envi-*
9 *ronmental studies for the project (to-*
10 *gether with supporting materials and*
11 *documentation) demonstrate that the*
12 *project will contribute to the goals of*
13 *improving water supply reliability in*
14 *the Calfed solution area or the Colo-*
15 *rado River Basin within the State and*
16 *otherwise meets the requirements of sec-*
17 *tion 1604 of the Reclamation Waste-*
18 *water and Groundwater Study and*
19 *Facilities Act (43 U.S.C. 390h–2).*

20 *(iv) REPORT.—Not later than 90 days*
21 *after the date of completion of a feasibility*
22 *study or the review of a feasibility study*
23 *under this subparagraph, the Secretary*
24 *shall submit to the appropriate authorizing*
25 *and appropriating committees of the Senate*

1 *and the House of Representatives a report*
2 *describing the results of the study or review.*

3 (4) *WATER TRANSFERS.—Activities under this*
4 *paragraph consist of—*

5 (A) *increasing the availability of existing*
6 *facilities for water transfers;*

7 (B) *lowering transaction costs through per-*
8 *mit streamlining; and*

9 (C) *maintaining a water transfer informa-*
10 *tion clearinghouse.*

11 (5) *INTEGRATED REGIONAL WATER MANAGEMENT*
12 *PLANS.—Activities under this paragraph consist of*
13 *assisting local and regional communities in the State*
14 *in developing and implementing integrated regional*
15 *water management plans to carry out projects and*
16 *programs that improve water supply reliability,*
17 *water quality, ecosystem restoration, and flood protec-*
18 *tion, or meet other local and regional needs, in a*
19 *manner that is consistent with, and makes a signifi-*
20 *cant contribution to, the Calfed Bay-Delta Program.*

21 (6) *ECOSYSTEM RESTORATION.—*

22 (A) *IN GENERAL.—Activities under this*
23 *paragraph consist of—*

1 (i) *implementation of large-scale res-*
2 *toration projects in San Francisco Bay and*
3 *the Delta and its tributaries;*

4 (ii) *restoration of habitat in the Delta,*
5 *San Pablo Bay, and Suisun Bay and*
6 *Marsh, including tidal wetland and ripar-*
7 *ian habitat;*

8 (iii) *fish screen and fish passage im-*
9 *provement projects, including the Sac-*
10 *ramento River Small Diversion Fish Screen*
11 *Program;*

12 (iv) *implementation of an invasive*
13 *species program, including prevention, con-*
14 *trol, and eradication;*

15 (v) *development and integration of*
16 *Federal and State agricultural programs*
17 *that benefit wildlife into the Ecosystem Res-*
18 *toration Program;*

19 (vi) *financial and technical support for*
20 *locally-based collaborative programs to re-*
21 *store habitat while addressing the concerns*
22 *of local communities;*

23 (vii) *water quality improvement*
24 *projects to manage or reduce concentrations*
25 *of salinity, selenium, mercury, pesticides,*

1 *trace metals, dissolved oxygen, turbidity,*
 2 *sediment, and other pollutants;*

3 *(viii) land and water acquisitions to*
 4 *improve habitat and fish spawning and*
 5 *survival in the Delta and its tributaries;*

6 *(ix) integrated flood management, eco-*
 7 *system restoration, and levee protection*
 8 *projects;*

9 *(x) scientific evaluations and targeted*
 10 *research on Program activities; and*

11 *(xi) strategic planning and tracking of*
 12 *Program performance.*

13 *(B) REPORTING REQUIREMENTS.—The Sec-*
 14 *retary or the head of the relevant Federal agency*
 15 *(as appropriate under clause (ii)) shall provide*
 16 *to the appropriate authorizing committees of the*
 17 *Senate and the House of Representatives and*
 18 *other appropriate parties in accordance with*
 19 *this subparagraph—*

20 *(i) an annual ecosystem program plan*
 21 *report in accordance with subparagraph*
 22 *(C); and*

23 *(ii) detailed project reports in accord-*
 24 *ance with subparagraph (D).*

25 *(C) ANNUAL ECOSYSTEM PROGRAM PLAN.—*

1 (i) *IN GENERAL.*—Not later than Octo-
2 ber 1 of each year, with respect to each eco-
3 system restoration action carried out using
4 Federal funds under this title, the Sec-
5 retary, in consultation with the Governor,
6 shall submit to the appropriate authorizing
7 committees of the Senate and the House of
8 Representatives an annual ecosystem pro-
9 gram plan report.

10 (ii) *PURPOSES.*—The purposes of the
11 report are—

12 (I) to describe the projects and
13 programs to implement this subsection
14 in the following fiscal year; and

15 (II) to establish priorities for
16 funding the projects and programs for
17 subsequent fiscal years.

18 (iii) *CONTENTS.*—The report shall
19 describe—

20 (I) the goals and objectives of the
21 programs and projects;

22 (II) program accomplishments;

23 (III) major activities of the pro-
24 grams;

1 (IV) the Federal agencies involved
 2 in each project or program identified
 3 in the plan and the cost-share arrange-
 4 ments with cooperating agencies;

5 (V) the resource data and ecologi-
 6 cal monitoring data to be collected for
 7 the restoration projects and how the
 8 data are to be integrated, streamlined,
 9 and designed to measure the effective-
 10 ness and overall trend of ecosystem
 11 health in the Bay-Delta watershed;

12 (VI) implementation schedules
 13 and budgets;

14 (VII) existing monitoring pro-
 15 grams and performance measures;

16 (VIII) the status and effectiveness
 17 of measures to minimize the impacts of
 18 the program on agricultural land; and

19 (IX) a description of expected ben-
 20 efits of the restoration program relative
 21 to the cost.

22 (iv) SPECIAL RULE FOR LAND ACQUI-
 23 TION USING FEDERAL FUNDS.—For each
 24 ecosystem restoration project involving land

1 *acquisition using Federal funds under this*
 2 *title, the Secretary shall—*

3 *(I) identify the specific parcels to*
 4 *be acquired in the annual ecosystem*
 5 *program plan report under this sub-*
 6 *paragraph; or*

7 *(II) not later than 150 days before*
 8 *the project is approved, provide to the*
 9 *appropriate authorizing committees of*
 10 *the Senate and the House of Represent-*
 11 *atives, the United States Senators from*
 12 *the State, and the United States Rep-*
 13 *resentative whose district would be af-*
 14 *ected, notice of any such proposed*
 15 *land acquisition using Federal funds*
 16 *under this title submitted to the Fed-*
 17 *eral or State agency.*

18 *(D) DETAILED PROJECT REPORTS.—*

19 *(i) IN GENERAL.—In the case of each*
 20 *ecosystem restoration program or project*
 21 *funded under this title that is not specifi-*
 22 *cally identified in an annual ecosystem pro-*
 23 *gram plan under subparagraph (C), not*
 24 *later than 45 days prior to approval, the*
 25 *Secretary, in coordination with the State,*

1 *shall submit to the appropriate authorizing*
2 *committees of the Senate and the House of*
3 *Representatives recommendations on the*
4 *proposed program or project.*

5 (ii) *CONTENTS.—The recommendations*
6 *shall—*

7 (I) *describe the selection of the*
8 *program or project, including the level*
9 *of public involvement and independent*
10 *science review;*

11 (II) *describe the goals, objectives,*
12 *and implementation schedule of the*
13 *program or project, and the extent to*
14 *which the program or project addresses*
15 *regional and programmatic goals and*
16 *priorities;*

17 (III) *describe the monitoring*
18 *plans and performance measures that*
19 *will be used for evaluating the per-*
20 *formance of the proposed program or*
21 *project;*

22 (IV) *identify any cost-sharing ar-*
23 *rangements with cooperating entities;*

24 (V) *identify how the proposed pro-*
25 *gram or project will comply with all*

1 applicable Federal and State laws, in-
2 cluding the National Environmental
3 Policy Act of 1969 (42 U.S.C. 4321 et
4 seq.); and

5 (VI) in the case of any program
6 or project involving the acquisition of
7 private land using Federal funds
8 under this title—

9 (aa) describe the process and
10 timing of notification of interested
11 members of the public and local
12 governments;

13 (bb) describe the measures
14 taken to minimize impacts on ag-
15 ricultural land pursuant to the
16 Record of Decision; and

17 (cc) include preliminary
18 management plans for all prop-
19 erties to be acquired with Federal
20 funds, including an overview of
21 existing conditions (including
22 habitat types in the affected
23 project area), the expected ecologi-
24 cal benefits, preliminary cost esti-

1 *mates, and implementation sched-*
2 *ules.*

3 (7) *WATERSHEDS.—Activities under this para-*
4 *graph consist of—*

5 (A) *building local capacity to assess and*
6 *manage watersheds affecting the Delta system;*

7 (B) *technical assistance for watershed as-*
8 *sessments and management plans; and*

9 (C) *developing and implementing locally-*
10 *based watershed conservation, maintenance, and*
11 *restoration actions.*

12 (8) *WATER QUALITY.—Activities under this*
13 *paragraph consist of—*

14 (A) *addressing drainage problems in the*
15 *San Joaquin Valley to improve downstream*
16 *water quality (including habitat restoration*
17 *projects that improve water quality) if—*

18 (i) *a plan is in place for monitoring*
19 *downstream water quality improvements;*
20 *and*

21 (ii) *State and local agencies are con-*
22 *sulted on the activities to be funded;*
23 *except that no right, benefit, or privilege is cre-*
24 *ated as a result of this subparagraph;*

1 (B) implementation of source control pro-
2 grams in the Delta and its tributaries;

3 (C) developing recommendations through
4 scientific panels and advisory council processes
5 to meet the Calfed Bay-Delta Program goal of
6 continuous improvement in Delta water quality
7 for all uses;

8 (D) investing in treatment technology dem-
9 onstration projects;

10 (E) controlling runoff into the California
11 aqueduct, the Delta-Mendota Canal, and other
12 similar conveyances;

13 (F) addressing water quality problems at
14 the North Bay Aqueduct;

15 (G) supporting and participating in the de-
16 velopment of projects to enable San Francisco
17 Bay Area water districts, and water entities in
18 San Joaquin and Sacramento Counties, to work
19 cooperatively to address their water quality and
20 supply reliability issues, including—

21 (i) connections between aqueducts,
22 water transfers, water conservation meas-
23 ures, institutional arrangements, and infra-
24 structure improvements that encourage re-
25 gional approaches; and

1 (ii) investigations and studies of avail-
2 able capacity in a project to deliver water
3 to the East Bay Municipal Utility District
4 under its contract with the Bureau of Rec-
5 lamation, dated July 20, 2001, in order to
6 determine if such capacity can be utilized to
7 meet the objectives of this subparagraph;

8 (H) development of water quality exchanges
9 and other programs to make high quality water
10 available for urban and other users;

11 (I) development and implementation of a
12 plan to meet all Delta water quality standards
13 for which the Federal and State water projects
14 have responsibility;

15 (J) development of recommendations
16 through science panels and advisory council
17 processes to meet the Calfed Bay-Delta Program
18 goal of continuous improvement in water quality
19 for all uses; and

20 (K) projects that are consistent with the
21 framework of the water quality component of the
22 Calfed Bay-Delta Program.

23 (9) SCIENCE.—Activities under this paragraph
24 consist of—

1 (A) supporting establishment and mainte-
 2 nance of an independent science board, technical
 3 panels, and standing boards to provide oversight
 4 and peer review of the Program;

5 (B) conducting expert evaluations and sci-
 6 entific assessments of all Program elements;

7 (C) coordinating existing monitoring and
 8 scientific research programs;

9 (D) developing and implementing adaptive
 10 management experiments to test, refine, and im-
 11 prove scientific understandings;

12 (E) establishing performance measures, and
 13 monitoring and evaluating the performance of
 14 all Program elements; and

15 (F) preparing an annual science report.

16 (10) DIVERSIFICATION OF WATER SUPPLIES.—

17 Activities under this paragraph consist of actions to
 18 diversify sources of level 2 refuge supplies and modes
 19 of delivery to refuges while maintaining the diversity
 20 of level 4 supplies pursuant to section 3406(d)(2) of
 21 the Central Valley Project Improvement Act (Public
 22 Law 102–575; 106 Stat. 4723).

23 (e) NEW AND EXPANDED AUTHORIZATIONS FOR FED-
 24 ERAL AGENCIES.—

1 (1) *IN GENERAL.*—*The heads of the Federal*
 2 *agencies described in this subsection are authorized to*
 3 *carry out the activities described in subsection (f)*
 4 *during each of fiscal years 2005 through 2010, in co-*
 5 *ordination with the Governor.*

6 (2) *SECRETARY OF THE INTERIOR.*—*The Sec-*
 7 *retary of the Interior is authorized to carry out the*
 8 *activities described in paragraphs (1), (2), and (4) of*
 9 *subsection (f).*

10 (3) *ADMINISTRATOR OF THE ENVIRONMENTAL*
 11 *PROTECTION AGENCY AND THE SECRETARIES OF AG-*
 12 *RICULTURE AND COMMERCE.*—*The Administrator of*
 13 *the Environmental Protection Agency, the Secretary*
 14 *of Agriculture, and the Secretary of Commerce are*
 15 *authorized to carry out the activities described in sub-*
 16 *section (f)(4).*

17 (4) *SECRETARY OF THE ARMY.*—*The Secretary of*
 18 *the Army is authorized to carry out the activities de-*
 19 *scribed in paragraphs (3) and (4) of subsection (f).*

20 (f) *DESCRIPTION OF ACTIVITIES UNDER NEW AND EX-*
 21 *PANDED AUTHORIZATIONS.*—

22 (1) *CONVEYANCE.*—*Of the amounts authorized to*
 23 *be appropriated under section 109, not more than*
 24 *\$184,000,000 may be expended for the following:*

1 (A) *SAN LUIS RESERVOIR.*—*Funds may be*
 2 *expended for feasibility studies, evaluation, and*
 3 *implementation of the San Luis Reservoir*
 4 *lowpoint improvement project, except that Fed-*
 5 *eral participation in any construction of an ex-*
 6 *panded Pacheco Reservoir shall be subject to fu-*
 7 *ture congressional authorization.*

8 (B) *INTERTIE.*—*Funds may be expended for*
 9 *feasibility studies and evaluation of increased*
 10 *capacity of the intertie between the State Water*
 11 *Project California Aqueduct and the Central Val-*
 12 *ley Project Delta Mendota Canal.*

13 (C) *FRANKS TRACT.*—*Funds may be ex-*
 14 *pended for feasibility studies and actions at*
 15 *Franks Tract to improve water quality in the*
 16 *Delta.*

17 (D) *CLIFTON COURT FOREBAY AND THE*
 18 *TRACY PUMPING PLANT.*—*Funds may be ex-*
 19 *pended for feasibility studies and design of fish*
 20 *screen and intake facilities at Clifton Court*
 21 *Forebay and the Tracy Pumping Plant facilities.*

22 (E) *DRINKING WATER INTAKE FACILI-*
 23 *TIES.*—

24 (i) *IN GENERAL.*—*Funds may be ex-*
 25 *pended for design and construction of the*

1 *relocation of drinking water intake facilities*
 2 *to in-Delta water users.*

3 *(ii) DRINKING WATER QUALITY.—The*
 4 *Secretary shall coordinate actions for relo-*
 5 *cating intake facilities on a time schedule*
 6 *consistent with subsection*
 7 *(d)(2)(A)(i)(I)(bb) or take other actions nec-*
 8 *essary to offset the degradation of drinking*
 9 *water quality in the Delta due to the South*
 10 *Delta Improvement Program.*

11 *(F) NEW MELONES RESERVOIR.—*

12 *(i) IN GENERAL.—In addition to the*
 13 *other authorizations granted to the Sec-*
 14 *retary by this title, the Secretary shall ac-*
 15 *quire water from willing sellers and under-*
 16 *take other actions designed to decrease re-*
 17 *leases from the New Melones Reservoir for*
 18 *meeting water quality standards and flow*
 19 *objectives for which the Central Valley*
 20 *Project has responsibility to assist in meet-*
 21 *ing allocations to Central Valley Project*
 22 *contractors from the New Melones Project.*

23 *(ii) PURPOSE.—The authorization*
 24 *under this subparagraph is solely meant to*
 25 *add flexibility for the Secretary to meet any*

1 *obligations of the Secretary to the Central*
 2 *Valley Project contractors from the New*
 3 *Melones Project by reducing demand for*
 4 *water dedicated to meeting water quality*
 5 *standards in the San Joaquin River.*

6 *(iii) FUNDING.—Of the amounts au-*
 7 *thorized to be appropriated under section*
 8 *109, not more than \$30,000,000 may be ex-*
 9 *pended to carry out clause (i).*

10 *(G) RECIRCULATION OF EXPORT WATER.—*
 11 *Funds may be used to conduct feasibility studies,*
 12 *evaluate, and, if feasible, implement the recir-*
 13 *culation of export water to reduce salinity and*
 14 *improve dissolved oxygen in the San Joaquin*
 15 *River.*

16 *(2) ENVIRONMENTAL WATER ACCOUNT.—*

17 *(A) IN GENERAL.—Of the amounts author-*
 18 *ized to be appropriated under section 109, not*
 19 *more than \$90,000,000 may be expended for im-*
 20 *plementation of the Environmental Water Ac-*
 21 *count.*

22 *(B) NONREIMBURSABLE FEDERAL EXPENDI-*
 23 *TURE.—Expenditures under subparagraph (A)*
 24 *shall be considered a nonreimbursable Federal*
 25 *expenditure in recognition of the payments of the*

1 *contractors of the Central Valley Project to the*
 2 *Restoration Fund created by the Central Valley*
 3 *Project Improvement Act (Title XXXIV of Public*
 4 *Law 102–575; 106 Stat. 4706).*

5 *(C) USE OF RESTORATION FUND.—*

6 *(i) IN GENERAL.—Of the amounts ap-*
 7 *propriated for the Restoration Fund for*
 8 *each fiscal year, an amount not to exceed*
 9 *\$10,000,000 for any fiscal year may be used*
 10 *to implement the Environmental Water Ac-*
 11 *count to the extent those actions are con-*
 12 *sistent with the fish and wildlife habitat*
 13 *restoration and improvement purposes of*
 14 *the Central Valley Project Improvement Act.*

15 *(ii) ACCOUNTING.—Any such use of the*
 16 *Restoration Fund shall count toward the 33*
 17 *percent of funds made available to the Res-*
 18 *toration Fund that, pursuant to section*
 19 *3407(a) of the Central Valley Project Im-*
 20 *provement Act, are otherwise authorized to*
 21 *be appropriated to the Secretary to carry*
 22 *out paragraphs (4) through (6), (10)*
 23 *through (18), and (20) through (22) of sec-*
 24 *tion 3406(b) of that Act.*

1 (iii) *FEDERAL FUNDING.—The*
 2 *\$10,000,000 limitation on the use of the*
 3 *Restoration Fund for the Environmental*
 4 *Water Account under clause (i) does not*
 5 *limit the appropriate amount of Federal*
 6 *funding for the Environmental Water Ac-*
 7 *count.*

8 (3) *LEVEE STABILITY.—*

9 (A) *IN GENERAL.—For purposes of imple-*
 10 *menting the Calfed Bay-Delta Program within*
 11 *the Delta (as defined in Cal. Water Code §*
 12 *12220)), the Secretary of the Army is authorized*
 13 *to undertake the construction and implementa-*
 14 *tion of levee stability programs or projects for*
 15 *such purposes as flood control, ecosystem restora-*
 16 *tion, water supply, water conveyance, and water*
 17 *quality objectives.*

18 (B) *REPORT.—Not later than 180 days*
 19 *after the date of enactment of this Act, the Sec-*
 20 *retary of the Army shall submit to the appro-*
 21 *priate authorizing and appropriating commit-*
 22 *tees of the Senate and the House of Representa-*
 23 *tives a report that describes the levee stability re-*
 24 *construction projects and priorities that will be*

1 *carried out under this title during each of fiscal*
 2 *years 2005 through 2010.*

3 (C) *SMALL FLOOD CONTROL PROJECTS.—*
 4 *Notwithstanding the project purpose, the author-*
 5 *ity granted under section 205 of the Flood Con-*
 6 *trol Act of 1948 (33 U.S.C. 701s) shall apply to*
 7 *each project authorized under this paragraph.*

8 (D) *PROJECTS.—Of the amounts authorized*
 9 *to be appropriated under section 109, not more*
 10 *than \$90,000,000 may be expended to—*

11 (i) *reconstruct Delta levees to a base*
 12 *level of protection (also known as the “Pub-*
 13 *lic Law 84–99 standard”);*

14 (ii) *enhance the stability of levees that*
 15 *have particular importance in the system*
 16 *through the Delta Levee Special Improve-*
 17 *ment Projects Program;*

18 (iii) *develop best management practices*
 19 *to control and reverse land subsidence on*
 20 *Delta islands;*

21 (iv) *develop a Delta Levee Emergency*
 22 *Management and Response Plan that will*
 23 *enhance the ability of Federal, State, and*
 24 *local agencies to rapidly respond to levee*
 25 *emergencies;*

1 (v) develop a Delta Risk Management
 2 Strategy after assessing the consequences of
 3 Delta levee failure from floods, seepage, sub-
 4 sidence, and earthquakes;

5 (vi) reconstruct Delta levees using, to
 6 the maximum extent practicable, dredged
 7 materials from the Sacramento River, the
 8 San Joaquin River, and the San Francisco
 9 Bay in reconstructing Delta levees;

10 (vii) coordinate Delta levee projects
 11 with flood management, ecosystem restora-
 12 tion, and levee protection projects of the
 13 lower San Joaquin River and lower
 14 Mokelumne River floodway improvements
 15 and other projects under the Sacramento-
 16 San Joaquin Comprehensive Study; and

17 (viii) evaluate and, if appropriate, re-
 18 habilitate the Suisun Marsh levees.

19 (4) PROGRAM MANAGEMENT, OVERSIGHT, AND
 20 COORDINATION.—

21 (A) IN GENERAL.—Of the amounts author-
 22 ized to be appropriated under section 109, not
 23 more than \$25,000,000 may be expended by the
 24 Secretary or the other heads of Federal agencies,
 25 either directly or through grants, contracts, or

1 *cooperative agreements with agencies of the*
 2 *State, for—*

3 *(i) Program support;*

4 *(ii) Program-wide tracking of sched-*
 5 *ules, finances, and performance;*

6 *(iii) multiagency oversight and coordi-*
 7 *nation of Program activities to ensure Pro-*
 8 *gram balance and integration;*

9 *(iv) development of interagency cross-*
 10 *cut budgets and a comprehensive finance*
 11 *plan to allocate costs in accordance with the*
 12 *beneficiary pays provisions of the Record of*
 13 *Decision;*

14 *(v) coordination of public outreach and*
 15 *involvement, including tribal, environ-*
 16 *mental justice, and public advisory activi-*
 17 *ties in accordance with the Federal Advi-*
 18 *sory Committee Act (5 U.S.C. App.); and*

19 *(vi) development of Annual Reports.*

20 *(B) PROGRAM-WIDE ACTIVITIES.—Of the*
 21 *amount referred to in subparagraph (A), not less*
 22 *than 50 percent of the appropriated amount*
 23 *shall be provided to the California Bay-Delta*
 24 *Authority to carry out Program-wide manage-*
 25 *ment, oversight, and coordination activities.*

1 **SEC. 104. MANAGEMENT.**

2 (a) *COORDINATION.*—*In carrying out the Calfed Bay-*
 3 *Delta Program, the Federal agencies shall coordinate their*
 4 *activities with the State agencies.*

5 (b) *PUBLIC PARTICIPATION.*—*In carrying out the*
 6 *Calfed Bay-Delta Program, the Federal agencies shall co-*
 7 *operate with local and tribal governments and the public*
 8 *through an advisory committee established in accordance*
 9 *with the Federal Advisory Committee Act (5 U.S.C. App.)*
 10 *and other appropriate means, to seek input on Program*
 11 *planning and design, technical assistance, and development*
 12 *of peer review science programs.*

13 (c) *SCIENCE.*—*In carrying out the Calfed Bay-Delta*
 14 *Program, the Federal agencies shall seek to ensure, to the*
 15 *maximum extent practicable, that—*

16 (1) *all major aspects of implementing the Pro-*
 17 *gram are subjected to credible and objective scientific*
 18 *review; and*

19 (2) *major decisions are based upon the best*
 20 *available scientific information.*

21 (d) *GOVERNANCE.*—

22 (1) *IN GENERAL.*—*In carrying out the Calfed*
 23 *Bay-Delta Program, the Secretary and the Federal*
 24 *agency heads are authorized to participate as non-*
 25 *voting members of the California Bay-Delta Author-*
 26 *ity, as established in the California Bay-Delta Au-*

1 *thority Act (Cal. Water Code § 79400 et seq.), to the*
 2 *extent consistent with Federal law, for the full dura-*
 3 *tion of the period the Authority continues to be au-*
 4 *thorized by State law.*

5 (2) *RELATIONSHIP TO FEDERAL LAW AND AGEN-*
 6 *CIES.—Nothing in this subsection shall preempt or*
 7 *otherwise affect any Federal law or limit the statu-*
 8 *tory authority of any Federal agency.*

9 (3) *CALIFORNIA BAY-DELTA AUTHORITY.—*

10 (A) *ADVISORY COMMITTEE.—The California*
 11 *Bay-Delta Authority shall not be considered an*
 12 *advisory committee within the meaning of the*
 13 *Federal Advisory Committee Act (5 U.S.C.*
 14 *App.).*

15 (B) *FINANCIAL INTEREST.—The financial*
 16 *interests of the California Bay-Delta Authority*
 17 *shall not be imputed to any Federal official par-*
 18 *ticipating in the Authority.*

19 (C) *ETHICS REQUIREMENTS.—A Federal of-*
 20 *ficial participating in the California Bay-Delta*
 21 *Authority shall remain subject to Federal finan-*
 22 *cial disclosure and conflict of interest laws and*
 23 *shall not be subject to State financial disclosure*
 24 *and conflict of interest laws.*

1 (e) *ENVIRONMENTAL JUSTICE*.—*The Federal agencies,*
 2 *consistent with Executive Order 12898 (59 Fed. Reg. 7629),*
 3 *should continue to collaborate with State agencies to—*

4 (1) *develop a comprehensive environmental jus-*
 5 *tice workplan for the Calfed Bay-Delta Program; and*

6 (2) *fulfill the commitment to addressing environ-*
 7 *mental justice challenges referred to in the Calfed*
 8 *Bay-Delta Program Environmental Justice*
 9 *Workplan, dated December 13, 2000.*

10 (f) *LAND ACQUISITION*.—*Federal funds appropriated*
 11 *by Congress specifically for implementation of the Calfed*
 12 *Bay-Delta Program may be used to acquire fee title to land*
 13 *only where consistent with the Record of Decision.*

14 **SEC. 105. REPORTING REQUIREMENTS.**

15 (a) *REPORT*.—

16 (1) *IN GENERAL*.—*Not later than February 15 of*
 17 *each year, the Secretary, in cooperation with the Gov-*
 18 *ernor, shall submit to the appropriate authorizing*
 19 *and appropriating committees of the Senate and the*
 20 *House of Representatives a report that—*

21 (A) *describes the status of implementation*
 22 *of all components of the Calfed Bay-Delta Pro-*
 23 *gram;*

1 (B) sets forth any written determination re-
 2 sulting from the review required under sub-
 3 section (b) or section 103(d)(1)(B); and

4 (C) includes any revised schedule prepared
 5 under subsection (b) or section
 6 103(d)(1)(B)(iii)(II).

7 (2) CONTENTS.—The report required under
 8 paragraph (1) shall describe—

9 (A) the progress of the Calfed Bay-Delta
 10 Program in meeting the implementation schedule
 11 for the Program in a manner consistent with the
 12 Record of Decision;

13 (B) the status of implementation of all com-
 14 ponents of the Program;

15 (C) expenditures in the past fiscal year for
 16 implementing the Program;

17 (D) accomplishments during the past fiscal
 18 year in achieving the objectives of additional and
 19 improved—

20 (i) water storage;

21 (ii) water quality, including—

22 (I) the water quality targets de-
 23 scribed in section 2.2.9 of the Record of
 24 Decision; and

1 (II) any pending actions that
 2 may affect the ability of the Calfed
 3 Bay-Delta Program to achieve those
 4 targets and requirements;
 5 (iii) water use efficiency;
 6 (iv) ecosystem restoration;
 7 (v) watershed management;
 8 (vi) levee system integrity;
 9 (vii) water transfers;
 10 (viii) water conveyance;
 11 (ix) water supply reliability (including
 12 new firm yield), including progress in
 13 achieving the water supply targets described
 14 in section 2.2.4 of the Record of Decision
 15 and any pending actions that may affect
 16 the ability of the Calfed Bay-Delta Program
 17 to achieve those targets; and
 18 (x) the uses and assets of the environ-
 19 mental water account described in section
 20 2.2.7 of the Record of Decision;
 21 (E) Program goals, current schedules, and
 22 relevant financing agreements, including funding
 23 levels necessary to achieve completion of the fea-
 24 sibility studies and environmental documenta-
 25 tion for the surface storage projects identified in

1 *section 103 by not later than September 30,*
2 *2008;*

3 *(F) progress on—*

4 *(i) storage projects;*

5 *(ii) conveyance improvements;*

6 *(iii) levee improvements;*

7 *(iv) water quality projects; and*

8 *(v) water use efficiency programs;*

9 *(G) completion of key projects and mile-*
10 *stones identified in the Ecosystem Restoration*
11 *Program, including progress on project effective-*
12 *ness, monitoring, and accomplishments;*

13 *(H) development and implementation of*
14 *local programs for watershed conservation and*
15 *restoration;*

16 *(I) progress in improving water supply reli-*
17 *ability and implementing the Environmental*
18 *Water Account;*

19 *(J) achievement of commitments under the*
20 *Endangered Species Act of 1973 (16 U.S.C. 1531*
21 *et seq.) and endangered species law of the State;*

22 *(K) implementation of a comprehensive*
23 *science program;*

24 *(L) progress toward acquisition of the Fed-*
25 *eral and State permits (including permits under*

1 *section 404(a) of the Federal Water Pollution*
 2 *Control Act (33 U.S.C. 1344(a)) for implemen-*
 3 *tation of projects in all identified Program*
 4 *areas;*

5 *(M) progress in achieving benefits in all ge-*
 6 *ographic regions covered by the Program;*

7 *(N) legislative action on—*

8 *(i) water transfer;*

9 *(ii) groundwater management;*

10 *(iii) water use efficiency; and*

11 *(iv) governance;*

12 *(O) the status of complementary actions;*

13 *(P) the status of mitigation measures; and*

14 *(Q) revisions to funding commitments and*

15 *Program responsibilities.*

16 *(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—*

17 *(1) IN GENERAL.—Not later than November 15 of*
 18 *each year, the Secretary, in cooperation with the Gov-*
 19 *ernor, shall review progress in implementing the*
 20 *Calfed Bay-Delta Program based on—*

21 *(A) consistency with the Record of Decision;*

22 *and*

23 *(B) balance in achieving the goals and ob-*
 24 *jectives of the Calfed Bay-Delta Program.*

1 (2) *REVISED SCHEDULE.*—If, at the conclusion
 2 of each such annual review or if a timely annual re-
 3 view is not undertaken, the Secretary or the Governor
 4 determines in writing that either the Program imple-
 5 mentation schedule has not been substantially adhered
 6 to, or that balanced progress in achieving the goals
 7 and objectives of the Program is not occurring, the
 8 Secretary and the Governor, in coordination with the
 9 Bay-Delta Public Advisory Committee, shall prepare
 10 a revised schedule to achieve balanced progress in all
 11 Calfed Bay-Delta Program elements consistent with
 12 the intent of the Record of Decision.

13 (c) *FEASIBILITY STUDIES.*—Any feasibility studies
 14 completed as a result of this title shall include identification
 15 of project benefits and a cost allocation plan consistent with
 16 the beneficiaries pay provisions of the Record of Decision.

17 **SEC. 106. CROSSCUT BUDGET.**

18 (a) *IN GENERAL.*—The President's budget shall in-
 19 clude such requests as the President considers necessary and
 20 appropriate for the appropriate level of funding for each
 21 of the Federal agencies to carry out its responsibilities
 22 under the Calfed Bay-Delta Program.

23 (b) *REQUESTS BY FEDERAL AGENCIES.*—The funds
 24 shall be requested for the Federal agency with authority and
 25 programmatic responsibility for the obligation of the funds,

1 *in accordance with subsections (b) through (f) of section*
 2 *103.*

3 *(c) REPORT.—Not later than 30 days after submission*
 4 *of the budget of the President to Congress, the Director of*
 5 *the Office of Management and Budget, in coordination with*
 6 *the Governor, shall submit to the appropriate authorizing*
 7 *and appropriating committees of the Senate and the House*
 8 *of Representatives a financial report certified by the Sec-*
 9 *retary containing—*

10 *(1) an interagency budget crosscut report that—*

11 *(A) displays the budget proposed, including*
 12 *any interagency or intra-agency transfer, for*
 13 *each of the Federal agencies to carry out the*
 14 *Calfed Bay-Delta Program for the upcoming fis-*
 15 *cal year, separately showing funding requested*
 16 *under both pre-existing authorities and under*
 17 *the new authorities granted by this title; and*

18 *(B) identifies all expenditures since 1998 by*
 19 *the Federal and State governments to achieve the*
 20 *objectives of the Calfed Bay-Delta Program;*

21 *(2) a detailed accounting of all funds received*
 22 *and obligated by all Federal agencies and State agen-*
 23 *cies responsible for implementing the Calfed Bay-*
 24 *Delta Program during the previous fiscal year;*

1 (3) a budget for the proposed projects (including
 2 a description of the project, authorization level, and
 3 project status) to be carried out in the upcoming fis-
 4 cal year with the Federal portion of funds for activi-
 5 ties under subsections (b) through (f) of section 103;
 6 and

7 (4) a listing of all projects to be undertaken in
 8 the upcoming fiscal year with the Federal portion of
 9 funds for activities under subsections (b) through (f)
 10 of section 103.

11 **SEC. 107. FEDERAL SHARE OF COSTS.**

12 (a) *IN GENERAL.*—The Federal share of the cost of im-
 13 plementing the Calfed Bay-Delta Program for fiscal years
 14 2005 through 2010 in the aggregate, as set forth in the
 15 Record of Decision, shall not exceed 33.3 percent.

16 (b) *PAYMENT FOR BENEFITS.*—The Secretary shall en-
 17 sure that all beneficiaries, including beneficiaries of envi-
 18 ronmental restoration and other Calfed program elements,
 19 shall pay for the benefit received from all projects or activi-
 20 ties carried out under the Calfed Bay-Delta Program.

21 (c) *INTEGRATED RESOURCE PLANNING.*—Federal ex-
 22 penditures for the Calfed Bay-Delta Program shall be im-
 23 plemented in a manner that encourages integrated resource
 24 planning.

1 **SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.**

2 *Nothing in this title—*

3 *(1) invalidates or preempts State water law or*
 4 *an interstate compact governing water;*

5 *(2) alters the rights of any State to any appro-*
 6 *priated share of the waters of any body of surface or*
 7 *ground water;*

8 *(3) preempts or modifies any State or Federal*
 9 *law or interstate compact governing water quality or*
 10 *disposal;*

11 *(4) confers on any non-Federal entity the ability*
 12 *to exercise any Federal right to the waters of any*
 13 *stream or to any ground water resource; or*

14 *(5) alters or modifies any provision of existing*
 15 *Federal law, except as specifically provided in this*
 16 *title.*

17 **SEC. 109. AUTHORIZATION OF APPROPRIATION.**

18 *There are authorized to be appropriated to the Sec-*
 19 *retary and the heads of the Federal agencies to pay the Fed-*
 20 *eral share of the cost of carrying out the new and expanded*
 21 *authorities described in subsections (e) and (f) of section*
 22 *103 \$389,000,000 for the period of fiscal years 2005 through*
 23 *2010, to remain available until expended.*

1 ***TITLE II—MISCELLANEOUS***

2 ***SEC. 201. SALTON SEA STUDY PROGRAM.***

3 *Not later than December 31, 2006, the Secretary of the*
 4 *Interior, in coordination with the State of California and*
 5 *the Salton Sea Authority, shall complete a feasibility study*
 6 *on a preferred alternative for Salton Sea restoration.*

7 ***SEC. 202. ALDER CREEK WATER STORAGE AND CONSERVA-***
 8 ***TION PROJECT FEASIBILITY STUDY AND RE-***
 9 ***PORT.***

10 *(a) STUDY.—Pursuant to Federal reclamation law*
 11 *(the Act of June 17, 1902 (32 Stat. 388, chapter 1093),*
 12 *and Acts supplemental to and amendatory of that Act (43*
 13 *U.S.C. 371 et seq.)), the Secretary of the Interior (referred*
 14 *to in this section as the “Secretary”), through the Bureau*
 15 *of Reclamation, and in consultation and cooperation with*
 16 *the El Dorado Irrigation District, is authorized to conduct*
 17 *a study to determine the feasibility of constructing a project*
 18 *on Alder Creek in El Dorado County, California, to store*
 19 *water and provide water supplies during dry and critically*
 20 *dry years for consumptive use, recreation, in-stream flows,*
 21 *irrigation, and power production.*

22 *(b) REPORT.—*

23 *(1) TRANSMISSION.—On completion of the study*
 24 *authorized by subsection (a), the Secretary shall*
 25 *transmit to the Committee on Resources of the House*

1 *of Representatives and the Committee on Energy and*
 2 *Natural Resources of the Senate a report containing*
 3 *the results of the study.*

4 (2) *CONTENTS OF REPORT.—The report shall*
 5 *contain appropriate cost sharing options for the im-*
 6 *plementation of the project based on the use and pos-*
 7 *sible allocation of any stored water.*

8 (3) *USE OF AVAILABLE MATERIALS.—In devel-*
 9 *oping the report under this section, the Secretary*
 10 *shall use reports and any other relevant information*
 11 *supplied by the El Dorado Irrigation District.*

12 (c) *COST SHARE.—*

13 (1) *FEDERAL SHARE.—The Federal share of the*
 14 *costs of the feasibility study authorized by this section*
 15 *shall not exceed 50 percent of the total cost of the*
 16 *study.*

17 (2) *IN-KIND CONTRIBUTION FOR NON-FEDERAL*
 18 *SHARE.—The Secretary may accept as part of the*
 19 *non-Federal cost share the contribution such in-kind*
 20 *services by the El Dorado Irrigation District as the*
 21 *Secretary determines will contribute to the conduct*
 22 *and completion of the study.*

23 (d) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 24 *authorized to be appropriated to carry out this section*
 25 *\$3,000,000.*

1 **SEC. 203. FOLSOM RESERVOIR TEMPERATURE CONTROL**
2 **DEVICE AUTHORIZATION.**

3 *Section 1(c) of Public Law 105–295 (112 Stat. 2820)*
4 *(as amended by section 219(b) of Public Law 108–137 (117*
5 *Stat. 1853)) is amended in the second sentence by striking*
6 *“\$3,500,000” and inserting “\$6,250,000”.*

Attest:

Secretary.

108TH CONGRESS
2^D SESSION

H. R. 2828

AMENDMENT